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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/702,409	11/05/2003	Donna Roth	CGI2-PT009.1	8346

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GARCIA-ZAMOR INTELLECTUAL PROPERTY LAW
ATTN: RUY GARCIA-ZAMOR
2700 LIGHTHOUSE POINT EAST
SUITE 629
BALTIMORE, MD 21224

EXAMINER

VANTERPOOL, LESTER L

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 01/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/702,409	Applicant(s) ROTH ET AL.	
	Examiner Lester L. Vanterpool	Art Unit 3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 5 recites the limitation "snap hook" in the first line of the claim. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1 – 3, 10, 11, 13, 15 – 18, and 20 – 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Hou (U.S. Application 2002 / 0170874 A1). Hou discloses the closure body (13) having a base portion (10) configured to engage the bottle (50) with the closure body positioned over the mouth (See Figure 1); the liquid passageway (11) defined by the base portion and extending at least partially therethrough (Paragraph 0020); the connector disposed on the closure body (13) and is adapted to allow the closure body (13) to be detachable connected to an object. See Figures 1 – 4.

Regarding claim 2, as stated above in claim 1, Hou discloses the connector located on the closure body (13) to extend generally outwardly away from the bottle (50). See Figures 1 – 4.

Regarding claim 3, as stated above in claim 2, Hou discloses the connector is generally symmetrically aligned about a longitudinal axis of the bottle (50). See Figures 1 – 4.

Regarding claim 10, as stated above in claim 1, Hou discloses the drinking spout (20) disposed on the base portion of the closure body (13) and forming at least part of the liquid passageway (Paragraph 19); the closure body (13) including the lid (30) that is moveable connected to the base portion (10) to move between the first position (See Figure 2), in which the lid (30) engages the base portion and prevents access to the drinking spout (20), and the second position, in which the lid (30) is at least partially disengaged from the base portion (10) to allow access to the drinking spout. See Figure 1.

Regarding claim 11, as stated above in claim 10, Hou discloses the drinking spout (20) is a tube. See Figure 1.

Regarding claim 13, as stated above in claim 10, Hou discloses the drinking spout (20) is formed by part of a straw (22). See Figure 1.

Regarding claim 15, as stated above in claim 10, Hou discloses the surface of the lid (30), which faces the base portion (10) when the lid (30) is in the first position, seals (31) the drinking spout while in the first position (Paragraph 0021). See Figure 2.

Regarding claim 16, as stated above in claim 15, Hou discloses the surface includes a seal (31), which substantially prevents fluid flow from the bottle past the lid when the lid (30) is in the first position (Paragraph 0021). See Figure 2.

Regarding claim 17, as stated above in claim 10, Hou discloses the annular envelop (21) adapted to receive a portion of the bottle defining the mouth therein (Paragraph 0020). See Figure 2.

Regarding claim 18, as stated above in claim 17, Hou discloses the seal (24) located within the envelope to generally reduce any liquid transfer between the closure body and the bottle (Paragraph 0020). See Figure 2.

Regarding claim 20, as stated above in claim 17, Hou discloses the annular shroud adapted to cover any interface between the annular envelope and the bottle. See Figure 1.

Regarding claim 21, as stated above in claim 20, Hou discloses the latch (41) for detachably securing the lid (30) in the first position (Paragraph 0021 & 0024). See Figure 1.

Regarding claim 22, as stated above in claim 21, Hou discloses the depressible section (40) that releases the latch to allow the lid (30) to be move from the first position (Paragraph 0021 & 0024). See Figure 1.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 4 – 5, & 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hou (U.S. Patent Application 2002 / 0170874 A1) in view of Butler (U.S. Patent Number Des. 311139). Hou discloses the invention substantially as claimed. However, Hou does not disclose the connector is a snap hook. Butler teaches the connector is a snap hook. See Figures 1 & 2. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the closure as taught by Butler in order to enhance and increase the closure functionality.

Regarding claim 5, as stated above in claim 1, Butler discloses the snap hook is integrally formed with the closure body.

Regarding claim 7, as stated above in claim 4, Butler discloses the snap hook including the lateral support member that is connected to opposing lateral sides of the snap hook and to a surface of the closure body that supports the snap hook.

7. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hou (U.S. Patent Application 2002 / 0170874 A1) in view of Butler (U.S. Design Patent 311139) and further in view of Mainquist et al., (U.S. Patent Number 6626311). Hou and Butler disclose the invention substantially as claimed, wherein, the portion of the snap hook has a sufficiently thin cross-section to allow the portion to be deflected. See Figures 3 & 5. However Hou and Butler do not disclose the closure body and the snap hook formed by a polymer. Moreover, it is obvious to one having ordinary skill in the art that the snap hook is made from a plastic material. Mainquist et al., discloses the closure body that is formed by the polymer material (column 5, line 25 – 27). It would have been obvious to one having ordinary skill in the art at the time the invention was made to make a polymer closure body as taught by Mainquist et al., in order to ensure a durable and light weight material with low manufacturing cost.

8. Claims 8, 9, 24 & 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hou (U.S. Patent Application 2002 / 0170874 A1) in view of Freimark (U.S. Patent

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Number 5409151) and in view of McRae (U.S. Patent Design Number 481937). Hou discloses the invention substantially as claimed. However, Hou does not disclose the connector having a U-shape member having first and second legs. Freimark teaches the connector (13) having the U-shape member having first and second legs. See Figure 4. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make a connector as taught by Freimark in order enhance portable transportation.

However, Hou and Freimark do not disclose the first leg pivotably connected to the closure body and the second leg detachable engageable with the closure body. McRae discloses the first leg pivotably connected to the closure body and the second leg detachable engageable with the closure body. See Figures 1 & 3. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the connector as taught by McRae in order to ensure an user friendly release mechanism.

Regarding claim 9, as stated above in claim 8, McRae teaches the connector incorporates the bolt clip that is configured to detachably engage the closure body. See Figure 1.

Regarding claim 24, as stated above in claim 10, Hou discloses the lid rotatable about a central closure (13) axis regardless of whether the lid (30) is in the first or second position. See Figures 1 – 3. However, Hou does not disclose the connector.

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Freimark teaches the connector. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make a closure as taught by Freimark in order to enhance portable transportation.

Regarding claim 27, as stated above in claim 8, McRae discloses the connector incorporates the fastener on the second leg that is configured to detachably engage the closure body.

9. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hou (U.S. Patent Application 2002 / 0170874 A1) in view of Pittarelli et al., (U.S. Patent Number 5711465). Hou discloses the invention substantially as claimed. However, Hou does not disclose the drinking spout is a rotatable tube. Pittarelli et al., discloses the drinking spout (140) is a rotatable tube (column 7, line 36 – 37). See Figures 5a, 6a, & 6b). It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the drinking spout as taught by Pittarelli et al., in order to increase the closure multi-functional capabilities.

10. Claims 12, 19, & 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hou (U.S. Patent Application 2002 / 0170874 A1) in view of Roth et al., (U.S. Patent Number 6584800). Hou, discloses the invention substantially as claimed. However, Hou does not disclose the pull top drinking spout. Roth et al., teaches a pull top drinking spout (56). See Figures 1, 4 & 5. It would have been obvious to one

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having ordinary skill in the art at the time the invention was made to make a pull top drinking spout as taught by Roth et al., in order to enhance the bottle capabilities by allowing the user to seal liquid fluids in the bottle without closing the lid.

Regarding claim 19, as stated above in claim 17, Hou discloses the invention substantially as claimed. However, Hou does not disclose the at least one thread for engaging the bottle. Roth et al., teaches at least one thread (68) for engaging the bottle (12). It would have been obvious to one having ordinary skill in the art at the time the invention was made to threads for engaging the bottle as taught by Roth et al., in order to adequately secure the closure to the bottle.

Regarding claim 23, as stated above in claim 1, Hou discloses the invention substantially as claimed. However, Hou does not disclose the thermal energy storage member detachably connected to the base portion of the closure body, wherein the base portion is configured to support the thermal energy storage member within the cavity of the bottle when the base portion is engaged with the bottle. Roth et al., teaches the thermal energy storage member (44) detachably connected to the base portion (18) of the closure body (50), wherein the base portion (18) is configured to support the thermal energy storage member (44) within the cavity of the bottle (12) when the base portion (18) is engaged with the bottle (12). See Figures 3 & 4. It would have been obvious to one having ordinary skill in the art at the time the invention was

made to make thermal energy storage member as taught by Roth et al., in order to maintained a consumable chilled or heated beverage.

11. Claim 25 & 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hou (U.S. Patent Application 2002 / 0170874 A1) in view of Freimark (U.S. Patent Number 5409151) and further in view of Sullivan et al., (U.S. Design Patent Number 387621). Hou and Freimark disclose the invention substantially as claimed. However, Hou and Freimark do not disclose the base portion including a first part that is adapted to engage the bottle and a second part that is rotationally connected to the first part. Sullivan et al., teaches the base portion including the first part that is adapted to engage the bottle and the second part that is rotationally connected to the first part. See Figures 5 – 7. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the base portion as taught by Sullivan et al., in order secure and prevent liquid leaks.

Regarding claim 26, as stated above in claim 25, Sullivan et al., discloses the second part of the base portion that is rotationally connected to the first part via the drinking spout. See Figure 6.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lester L. Vanterpool whose telephone number is 571-272-8028. The examiner can normally be reached on Monday - Friday (8:30 - 5:00) EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


JES F. PASCUA
PRIMARY EXAMINER

LLV